



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

APR 05 2018

Lawrence J. Tabas
Obermayer Rebmann Maxwell & Hippel LLP
Centre Square West, Suite 3400
1500 Market Street
Philadelphia, PA 19102

RE: MUR 7281
Ryan E. Mackenzie
Mackenzie for Congress
and Joel Jukus, as treasurer
Citizens for Ryan Mackenzie
and Lisa A. Walter, as treasurer

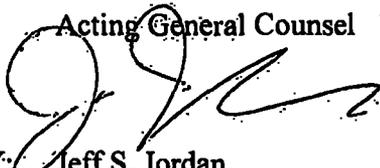
Dear Mr. Tabas:

On December 7, 2017, the Federal Election Commission ("Commission") notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On March 22, 2018, based upon the information contained in the complaint and information provided by respondents, the Commission decided to dismiss allegations that Ryan E. Mackenzie, Mackenzie for Congress and Joel Jukus in his official capacity as treasurer, and Citizens for Ryan Mackenzie and Lisa Walter in her official capacity as treasurer violated provisions of the Act. The Commission then closed its file in this matter. A copy of the Factual & Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). If you have any questions, please contact Amanda Andrade, the attorney assigned to this matter, at (202) 694-1343.

Sincerely,

Lisa J. Stevenson
Acting General Counsel


BY: Jeff S. Jordan
Assistant General Counsel

Enclosure:
Factual & Legal Analysis

1 planned event to announce his federal candidacy.⁵ Respondents assert that the invoice for the
2 invitation was later reissued to the Committee, and the venue—at the Committee’s request—
3 refunded the State Committee’s payment after Mackenzie paid the costs himself.⁶ Respondents
4 argue that under these circumstances, the complaint should be dismissed because the error was
5 “inadvertent and innocent,” and Respondents took quick corrective action, including refunding
6 all non-federal funds.⁷ Respondents assert that the total amount involved is \$4,754.69.⁸ For the
7 reasons discussed below, the Commission exercises its prosecutorial discretion and dismisses
8 this matter pursuant to *Heckler v. Chaney*.⁹

9 The Act prohibits federal candidates and entities directly or indirectly established,
10 financed, maintained, or controlled by or acting on behalf of those candidates from transferring,
11 soliciting, receiving, directing, or spending funds in connection with an election for federal office
12 unless the funds are subject to the limits, prohibitions, and reporting requirements of the Act.¹⁰
13 Moreover, Commission regulations prohibit the transfer of funds or assets from a candidate’s
14 non-federal campaign committee to his or her federal campaign committee.¹¹

⁵ *Id.* at 1.

⁶ The Committee appears to have reimbursed the candidate for this expense. Resp. at 2; October 2017 Quarterly Report at 41, <http://docquery.fec.gov/cgi-bin/forms/C00655175/1185458/>.

⁷ Resp. at 2.

⁸ *Id.*

⁹ 470 U.S. 821 (1985).

¹⁰ 52 U.S.C. § 30125(e)(1). Pennsylvania law contains no limit on the amount of an individual’s contributions, contrary to the Act’s provisions. See Penn. Dep’t of State, Campaign Finance Reporting Law: Frequently Asked Questions at 2, available at <http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/Law-CF/law.pdf>.

¹¹ 11 C.F.R. § 110.3(d).

1 Respondents concede that the State Committee was initially invoiced for the invitations
2 to the Campaign Event,¹² and the State Committee paid for the venue. Regarding the allegations
3 that the State Committee paid for promotional materials at the Campaign Event, it is possible that
4 some state campaign materials were used or distributed at the Campaign Event, but it is likely
5 their value was minimal.¹³ Given the specific factual circumstances, the relatively modest
6 amounts at issue, and quick remedial actions taken by the Committee, the Commission dismisses
7 the allegations consistent with the Commission's prosecutorial discretion to determine the proper
8 ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32
9 (1985).

¹² The Commission has no information indicating whether the State Committee paid this invoice, and the Response is not clear—it refers to the invitations as one of the “payments made by the State House Committee” but later notes that the expense “was initially to be paid for by the State House Committee.” Resp. at 2.

¹³ The Commission has dismissed similar allegations concerning federal campaigns making incidental use of promotional materials prepared for a candidate's state campaign. See Factual & Legal Analysis at 6-7, MUR 6785 (Kwasman for Congress, *et al.*) (dismissing allegation that a federal campaign used state campaign assets where “the only apparent potential use of state campaign resources was the signs referring to Kwasman as a state representative, the value of which is likely minimal”); Factual & Legal Analysis at 9, MUR 6773 (Brian Nestande, *et al.*) (dismissing allegation that a federal campaign website displayed the candidate's state campaign mailer, which made no reference to the candidate's federal campaign because “the value of this transferred asset . . . would likely be *de minimis*”).